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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,679

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Don Edvalson

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EXAMINER

JOHNSON, JOHNESE T

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	Application No. 10/825,679	Applicant(s) EDVALSON ET AL.	
	Examiner Johnese Johnson	Art Unit 2166	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-11, 13-19 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, 13-19, and 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Remarks*

1. In response to the Amendment filed on April 17, 2007, claims 1-3, 5-11, 13-19, and 43 are pending in this application. Claims 4, 12, and 20-42 are cancelled.
2. The rejections to claims 1-3, 6-8, 9-11, 13, and 14-15 under 35 USC 101, directed to *software per se*, are maintained because the claims still disclose software only. The claims must be amended to recite hardware in the body.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3, 6-8, 9-11, 13, and 14-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-3, 6-8, 14-15 are directed to a file management system which is comprised of a file system and a controller for controlling access to data files in shared storage. According to applicants description, in paragraph [0022], line 2, a controller may be a module which is a set of program instructions and program instructions, *per se*, constitute non-statutory subject matter.

Claims 9-11 are directed to an allocator module which is simply a set of program instructions/ software module.

Claim 13 recites "...software for communicating..." which is just program instructions.

The content of these claims is directed to non-functional descriptive material (MPEP 2106.01 [R-5]). The content is not structurally and functionally interrelated to a computer-readable medium thereby rendering it incapable of producing a useful, concrete and tangible result and is therefore, non-statutory.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-11, 13-19, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. PG. Pub. No. 2003/0046369 issued to Sim et al (hereafter Sim).

Regarding claim 1, Sim discloses:

A file management system (see paragraph [0045], lines 6-9), comprising:

a proxy file system for managing a plurality of proxy files (see paragraph [45], lines 6-7),

wherein the plurality of proxy files are associated with counterpart data files in a shared storage (see paragraph [0045], line 9) and include information for accessing the counterpart data files (see paragraph [0249], lines 2-10) from the shared storage, the shared storage comprising a port to receive via a network

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from a plurality of clients (see paragraph [0145], line 4; wherein access is provided via Ethernet) and one or more structured data archives distributed among one or more network-based data processing systems (see paragraph [0044]), and the accessing information, comprising information indicating locations of the counterpart files on the shared storage (see paragraph [0085], lines 1-5; wherein information is used to piece together the entire file); and a controller for controlling access by a plurality of clients to the counterpart data files in the shared storage using the proxy file system (see paragraph [0083], line 6).

Regarding claim 2, Sim discloses:

wherein the controller is configured to provide the clients with access to the counterpart data files in the shared storage using the access information included in the proxy files (see paragraph [0177], lines 1-2; wherein the controller manages the VFCS and application server through which access to the shared storage is provided).

Regarding claim 3, Sim discloses:

wherein the controller is configured to:

recognize attempts by the clients to access the counterpart data files in the shared storage (see paragraph [0117] – recognizes requests);

retrieve from the proxy files the information for accessing the counterpart data files from the shared storage in response to the access attempts (see paragraph [0249],

lines 2-10);

and

provide the clients with access to the counterpart data files in the shared storage using the access information retrieved from the proxy files (see paragraph [0251], line 1; wherein the blocks forwarded to application server comprise requested data).

Regarding claim 5, Sim discloses:

wherein the proxy file system comprises a non-sharable file system running on a local disk coupled to the controller (see paragraph [0044], line 17, and paragraph [0083]; wherein control unit may reside with vfcs).

Regarding claim 6, Sim discloses:

wherein the proxy file system comprises at least one module to facilitate at least one of the following functions: security, locking, file sharing, and change notifications (see paragraph [0170]; wherein NFS supports file sharing, and representation features, such as: file access and file and record locking).

Regarding claim 7, Sim discloses:

wherein the proxy file system is smaller in size than the shared storage (see paragraph [0085], lines 7-12).

Regarding claim 8, Sim discloses:

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wherein the controller comprises a server (see paragraph [0204]; wherein the control unit is a database server).

Regarding claim 9, Sim discloses:

wherein the controller comprises:

an allocator module for allocating and de-allocating portions of the shared storage to the counterpart data files (see paragraph [0176]; wherein the control unit has a storage management subsystem); and  
a network interface module for facilitating communications with the plurality of clients (see paragraph [0083], lines 6-7; wherein the network manager facilitates communication).

Regarding claim 10, Sim discloses:

wherein the allocator module comprises program code for managing a plurality of allocation units (see paragraph [0176]; wherein the control unit has a storage management subsystem that allocates storage space and that software module is comprised of instructions or "program code").

Regarding claim 11, Sim discloses:

wherein the allocation units indicate locations of portions of the shared storage allocated to information in the counterpart data files (see paragraph [0085], lines 1-5; wherein the

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VFCS uses the block information to piece together the entire file; and, paragraph [0091], line 2; wherein the blocks are broken down into smaller units).

Regarding claim 13, Sim discloses:

wherein the plurality of clients include software

for communicating with the controller and the shared storage (see paragraph [0044], lines 15-19; wherein the application server is comprised of software).

Regarding claim 14, Sim discloses:

The system of claim 1, further comprising a secondary controller configured to mirror the controller and replace the controller if the controller is disabled (see paragraph [0147], lines 9-13).

Regarding claim 15, Sim discloses:

The system of claim 14, further comprising a secondary proxy file system coupled to the secondary controller (see paragraph [0083], line 16; wherein there are multiple distribution centers and each has a controller coupled to a proxy file system).

Regarding claim 16, Sim discloses:

A file management method, comprising:

managing a plurality of proxy files (see paragraph [45], lines 6-7), wherein the plurality of proxy files are associated with counterpart data files in a shared storage (see



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paragraph [0118], lines ) and include information for accessing the counterpart data files (see paragraph [0249]) from the shared storage, the shared storage comprising a port to receive via a network from a plurality of clients (see paragraph [0145], line 4; wherein access is provided via Ethernet) and one or more structured data archives distributed among one or more network-based data processing systems (see paragraph [0044]), and the accessing information, comprising information indicating locations of the counterpart files on the shared storage (see paragraph [0085], lines 1-5; wherein information is used to piece together the entire file); and

controlling access by a plurality of clients to the counterpart data files in the shared storage via the proxy files (see paragraph [0083], lines 11-13).

Regarding claim 17, Sim discloses:

wherein controlling access comprises providing the clients with access to the counterpart data files in the shared storage using the access information included in the proxy files (see paragraph [0177], lines 1-2 – through VFCS and storage management).

Regarding claim 18, Sim discloses:

wherein providing the clients with access to the counterpart data files comprises providing the clients with information

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indicating locations of the counterpart files on the shared storage (see paragraph [0085], lines 1-5; wherein the information is used to piece together the entire file).

Regarding claim 19, Sim discloses:

wherein controlling access to the counterpart data files comprises:

recognizing attempts by the clients to access the counterpart data files in the shared storage (see paragraph [0117] – recognizes requests);

retrieving from the proxy files the information for accessing the counterpart data files from the shared storage in response to the access attempts (see paragraph [0249], lines 2-10); and

providing the clients with access to the counterpart data files in the shared storage using the information retrieved from the proxy files (see paragraph [0251], line 1; wherein the blocks from forwarded to the application server comprise requested data).

Regarding claim 43, Sim discloses:

wherein the proxy files further include attribute information associated with counterpart data files useful to applications accessing the counterpart data files (see paragraph [0244], lines 13-15).

***Response to Arguments***

6. Applicant's arguments filed April 17, 2007 have been fully considered but they are not persuasive.

Applicant's arguments that, in claims 1 and 16, the features of "*the shared storage*" and "*the information for accessing the counter part data files from the shared storage*" are disclosed by Sims is acknowledged but not deemed persuasive.

Sims discloses the feature, "*the shared storage*" (see paragraph [0045], line 9) as well as the feature of , "*the information for accessing the counter part data files from the shared storage*" (see paragraph [0085], lines 1-5; wherein information is used to piece together the entire file) and (see paragraph [0244], lines 13-15 – the attribute information).

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnese Johnson whose telephone number is 571-270-1097. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



20 August 2007

JJ



**HOSAIN ALAM**  
**SUPERVISORY PATENT EXAMINER**